

§ 724.223

32 CFR Ch. VI (7–1–13 Edition)

§ 724.223 NDRB support and augmentation by regular and reserve activities.

(a) When an NDRB Panel travels for the purpose of conducting hearings, it shall normally select Navy or Marine Corps installations in the area visited as review sites.

(b) The NDRB Traveling Board shall normally consist of members from the NCPB and augmentees from regular and reserve Navy and Marine Corps sources, as required.

(c) Navy and Marine Corps activities in the geographical vicinity of selected review sites shall provide administrative support and augmentation to an NDRB Panel during its visit where such assistance can be undertaken without interference with mission accomplishment. The NDRB shall coordinate requests for augmentees and administrative support through Commandant of the Marine Corps or the Chief of Naval Reserve, as appropriate.

(d) The administrative staff of the NDRB shall undertake all arrangements for NDRB Traveling Panel visits and shall process associated review documents.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

§ 724.224 Court-martial specifications, presumption concerning.

(a) Relevant and material facts stated in a court-martial specification, shall be presumed by the NDRB Panel as established facts. With respect to a discharge or dismissal adjudged by a court-martial case tried under the Uniform Code of Military Justice, the action may extend only to change in the discharge or dismissal for purposes of clemency. This policy only applies to cases filed with the discharge review board after December 6, 1983.

(b) Relevant and material facts stated in a court-martial specification, in the face of which the applicant requested a discharge for the good of the service to avoid trial by court-martial, shall be considered in accordance with the following:

(1) If the applicant/accused was required to admit the facts contained in the charge sheet, or if the discharge authority was required to find that the stated facts were true, then the NDRB

can presume the truth of such facts, unless there is a substantial credible evidence to rebut this presumption; or

(2) If the discharge in lieu of court-martial only required a valid referral, the NDRB may presume that the signer either had personal knowledge of, or had investigated the matters set forth, and that the charges were true in fact to the best of the signer's knowledge and belief.¹ The weight to be given this presumption in determining whether the facts stated in the charge sheet are true is a matter to be determined by the NDRB. To the extent that the discharge proceeding reflects an official determination that the facts stated in the charge sheet are true; that the applicant/accused admitted the facts stated in the charge sheet; or that the applicant/accused admitted guilt of the offense(s), then the presumption is strengthened. In accordance with paragraph B12f of enclosure (3) to 32 CFR part 70 the presumption may be rebutted by "substantial credible evidence."

Subpart C—Director, Secretary of the Navy Council of Review Boards and President Naval Discharge Review Board; Responsibilities in Support of the Naval Discharge Review Board

§ 724.301 Mission.

To administer and supervise assigned boards and councils within the Department of the Navy.

§ 724.302 Functions: Director, Secretary of the Navy Council of Review Boards.

(a) Make recommendations to the Secretary of the Navy regarding organization, tasking and resources of the

¹Charges may be preferred by any person subject to the Uniform Code of Military Justice. The charges must be signed and sworn to before a commissioned officer authorized to administer oaths, and shall state that the signer has personal knowledge of, or has investigated the matters set forth therein; and that the charges are true in fact to the best of the signer's knowledge and belief. 10 U.S.C. 830 (1976) (Art. 30 Uniform Code of Military Justice).

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NDRB and its associated administrative support.

(b) Submit recommendations to the Secretary of the Navy regarding policy and procedures for discharge review.

(c) Provide administrative and clerical support for NDRB.

(d) Inform the Secretary of the Navy of matters of interest to him.

(e) Maintain a system of records, including as a minimum:

(1) Records specified for the NDRB as stipulated in the procedures prescribed in subpart H of this Manual.

(2) Records required for the administration of military and civilian personnel.

(3) Files of correspondence received and issued.

(f) Establish billet/position assignment criteria for the NDRB.

(g) Propose to the Secretary of the Navy, changes to this instruction.

(h) Issue requisite precepts and remove or add members to the NDRB from personnel detailed to serve on the Secretary of the Navy Council of Review Boards, or from personnel otherwise made available.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

§ 724.303 Functions: President, Naval Discharge Review Board.

(a) Exercise primary cognizance within the Department of the Navy for matters relating to discharge review.

(b) Supervise and direct the activities of the NDRB.

(c) Maintain appropriate liaison with discharge review activities in other services (use Army Discharge Review Board as focal point for service coordination).

(d) Maintain coordination with the Commandant of the Marine Corps (Code M) and the Commander, Naval Military Personnel Command in matters associated with discharge review.

(e) In conformance with SECNAVINST 5211.5 series, protect the privacy of individuals in connection with discharge review.

(f) Assure that NDRB functions are administered in accordance with the appropriate Secretary of the Navy instructions dealing with privacy and access to information.

(g) Convene the NDRB as authorized by the Secretary of the Navy.

(h) Direct the movement of the NDRB Traveling Panel(s) on the basis of regional hearing requests.

(i) Monitor the performance of the naval discharge review system. Make recommendations for changes and improvements. Take action to avoid delays in processing of individual discharge review actions.

(j) Provide NDRB inputs for the maintenance of a public reading file and maintain associated NDRB indexes updated quarterly.

[50 FR 10943, Mar. 19, 1985, as amended at 75 FR 747, Jan. 6, 2010]

§ 724.304 Responsibility for Department of the Navy support of the Naval Discharge Review Board.

The Commandant of the Marine Corps; Commander, Naval Military Personnel Command; Commander, Naval Reserve Force; Commander, Naval Medical Command; and chiefs of other bureaus and offices of the Department of the Navy shall provide support, as requested, to the Naval discharge review process.

§ 724.305 Functions of the CMC and CNO.

In the case of Navy, CNMPC, under the CNP, shall discharge responsibilities of the CNO.

(a) Provide and facilitate access by the NDRB to service/health records and other data associated with performance of duty of applicants.

(b) Advise the NDRB of developments in personnel management which may have a bearing on discharge review judgments.

(c) Implement the discharge review decisions of the NDRB and those of higher authority within respective areas of cognizance.

(d) Include the record of NDRB proceedings as a permanent part of the service record of the applicant in each case.

(e) Where appropriate, recommend cases for the NDRB to review on its own motion.

(f) Provide qualified personnel as NDRB members, recorders and administrative staff.